

Polk County
Board of Adjustments
February 28, 2014

Call to Order: 8:56 A.M.

Members in Attendance: Kerry Winkelmann, Robert Franks, Osmund Moe, Courtney Pulkrabek, and Donovan Wright.

Members Absent: None

Also Present: Polk County Environmental Services' staff: Josh Holte & Michelle Erdmann.

Minutes: A motion was made by Franks to approve the minutes from December 13, 2013 meeting with a minor spelling change. Second by Wright. All in favor.

Holte discussed an issue regarding a variance issued to the Fosston Golf Course in 1997. The recorded variance contained a couple of clerical errors, and the attorney of the City of Fosston requested that an affidavit be filed to correct the errors. The first error listed "Greg Mireault" as the owner, and it should have listed "Mireault's Inc." as the owner. The other typo was found in the legal description where it listed "Township 140", and it should have stated "Township 148". Holte added that he would like the Board to make a recommendation for the Board Chair to sign an affidavit, correcting these errors so Mr. Mireault can close on the transaction for this property.

Having considered the request of Greg Mireault that the Board Chairman, Kerry Winkelmann, execute an Affidavit to clear a title concern resulting from certain clerical errors contained in a variance order issued by this Board on June 27, 1997, Pulkrabek made a motion to approve Mr. Mireault's request for the Board Chairman to execute the Affidavit, the contents of which shall be deemed the findings and action of the Board effective February 28, 2014. Seconded by Moe. All in favor. Motion carried.

Holte then introduced Alyson Bergstrom to the Board. This is her first day as an Environmental Technician to replace Chad Knutson who left Polk County back in early 2013 for another job.

Public Hearing: Variance Randy Pallum Parcel #57.00023.00

Winkelmann read the notice and turned the meeting over to Holte.

Holte stated the applicant has requested a variance to reduce the front yard setback off the right-of-way of County Road 3 to 43 feet in order to build a new house. The ordinance calls for a 100 foot setback.

The property is 39.02 acres in size and has a road right-of-way of 65 feet of County Road 3. The applicant is requesting a variance to 43 feet off the ROW to build the house on the property where the old house used to be located.

The applicant would need to submit a septic design before any building permit would be issued. The applicant's stated practical difficulty is that the house would not fit in the yard properly. They tore down the old house and would like to build a new house in that location. The yard is setup to have a house there and it is the highest point of the property for better drainage; since they are planning a basement.

Rich Sanders – Polk County Engineer, stated: If they want to build a home at 108' from Centerline, that leaves 43' in the future to plant any trees needed to protect their home and provide a passage for utilities that may need to be relocated if we need to reconstruct our roadway. So they will need to take that into account. Otherwise I am fine with the distance.

Harold Watnemo – neighbor – stated: As a neighbor of the Pallum family, and also having land whose boundaries are adjoining their land, I am quite familiar with their building site. It is my opinion that the request they have put forth for this variance, for the purpose of building their home here in Queen Township, be granted to them without reservation. Thank you for your consideration of my input and I encourage your affirmative action on this request.

Hole then went over slides showing the property and its location. Staff would like to leave the decision of whether this variance should be approved or denied up to the Board of Adjustment.

Winkelmann asked if the outbuildings were to the south? Holte said yes and the slope is lower as you go south. Franks asked if the existing trees were staying? Pallum said one will have to come down, but the others will remain. Pulkrabek stated that based on the highway okay and utility issues, he sees no issues with this request.

The Board had no further questions for Mr. Pallum. Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	No	No	No	No	Yes
2.	Yes	Yes	Yes	Yes	Yes
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	Yes
5.	No	No	No	No	No
6.	No	No	No	No	No
7.	No	No	No	No	No

6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 30 No's and 5 Yes's the criteria has been met to grant the variance if you so wish.

A motion was made by Wright to grant the variance request. Second by Pulkrabek. All in favor.

Public Hearing: Variance Doug Mahan Parcel #32.00207.00

Winkelmann read the notice, waiving the reading of the full legal and turned the meeting over to Holte.

Holte stated the applicant is requesting a variance to exceed the 25% impervious surface requirement in order to construct an 800 sq. ft. (40 x 20) garage addition on a riparian lot on Maple Lake that would bring the total impervious surface coverage on the lot to 41.55% . The applicant currently has 36.68% impervious surface coverage.

Mahan stated he believes there was an error in calculating the impervious surface coverage, as the 300 sq. ft. deck on the front of the house should not be counted. Holte stated that yes the deck would be counted as impervious surface.

Holte went over the requirements found in PCZO Sections 18.2521. The applicant has a riparian lot and back lot on Maple Lake. The riparian lot is 75 feet wide and 150 feet long (11,250 sq. ft.) and the back lot is 75 feet wide and 90 feet long (6,750 sq. ft.). The applicant currently has 36.68% of impervious surface coverage on the riparian lot.

The applicant is proposing to remove some concrete and with his proposed plan would have 41.55% of impervious surface coverage when his project is completed. The applicant has not submitted a passing septic compliance inspection on his existing septic system. This would need to be submitted before any permit could be issued.

The applicant's stated practical difficulty is that this structure is for year round use. We need an attached garage and mud room at this location, due to the severe winter weather; we need storage for the snow blower and vehicle. The applicant also noted that the previous owner modified the detached garage to living space, so no room for vehicle or snow blower storage, making the garage unusable for vehicle storage. The applicant stated that he would like to combine his back lot with his front lot to increase his impervious surface standards.

Stephanie Klamm – DNR Hydrologist – commented that the DNR recommends denial of the request for the construction of a new garage and mudroom. The DNR does not find that the applicant meets any of the three practical difficulty criteria. – Holte also read the full letter to the board.

Holte then went over slides showing the property and location. Staff recommends denial of the variance request for the following reasons:

- 1) Staff feels that the impervious surface coverage requested is too high and the reason to have the 25% requirement is to adequately manage storm water runoff and sediments entering the lake.
- 2) Staff feels that the back lot is a separate lot separated by a road, and shouldn't be counted as contributing toward the impervious surface standards on the front lot.
- 3) The applicant has an existing detached garage on the property that could be converted back into a garage.
- 4) The DNR has recommended denial of the request.

If to Board wishes to grant this variance request staff recommends that the following conditions below be placed on the variance:

- 1) No more than 35% of the lot shall be developed with impervious surface coverage.
- 2) The applicant must remove all of the concrete currently on the property.
- 3) The applicant must plant a vegetative buffer of at least 10' between his west property line.
- 4) The applicant could replace his concrete with pervious pavers and staff would allow a 50% credit reduction for calculating surface coverage.
- 5) The applicant would be limited to a 22' x 22' pervious paver pad in front of the detached garage, and a 14' x 14' pervious pad in front of the proposed attached garage.
- 6) The applicant/owner cannot add to the impervious surface coverage of the lot in the future without first obtaining a variance. (This shall include sidewalks, patios, pavers, etc.)

Winkelmann asked for clarification as to what the current garage is used for. Mahan said it is basically a "man cave"/living space. Mahan also stated that he currently shares a sewer system with neighbor Tim Persson and he would like to get the front lot and back lot onto one parcel so that for selling purposes they are together. The back lot is only for septic systems, no buildings are allowed there. The same situation occurs about 5 houses down.

Tim Persson stated that there are a lot of properties of this same size that have double garages on them so they must all be over the 25% rule. Mahan stated that they also have a snow issue. They have to take a shovel into the house with them at night just to make sure they are able to get out in the morning. They want/need this proposed garage to help with that issue as it should help block the snow from blocking them in.

Persson stated that all these properties drain back to a buffer area and then towards the shoreline, so it should not cause any problems for the neighbors with excessive runoff. Mahan said he just bought the property in Sept 2013 and assumed the lots were one. Holte said that since 2008, for sure, we have always calculated backlots separate when it comes to square footage. Persson asked why? Holte said they are usually always separate plats and parcel numbers. Persson said that the County sold us the lots to increase our values and have year round homes.

Pulkrabek said we need to notify the DNR within 10 days of our decision. What can the DNR do then? Holte said if the DNR is opposed to our decision, they can decide to challenge the decision in District Court. Franks asked what about staff recommendations? Holte said they can still challenge the decision. But if staff recommendations are followed, the DNR probably wouldn't challenge the decision. With staff recommendations, the applicant would be decreasing the amount of impervious coverage that he currently has.

The Board had no further questions for Doug Mahan. Holte asked the board the hardship questions.

Question	Pulkrabek	Moe	Franks	Wright	Winkelmann
1.	Yes	Yes	Yes	Yes	Yes
2.	Yes	Yes	Yes	Yes	Yes
3.	No	No	No	No	No
4.	Yes	Yes	Yes	Yes	Yes
5.	No	No	No	Yes	Yes
6.	No	No	No	No	No
7.	No	No	No	No	No

Holte stated with 18 No's and 17 Yes's the criteria has been met to grant the variance if you so wish.

Pulkrabek stated the DNR is recommending denial and that they can appeal our decisions if so desired. What is the timeframe for something like that. Holte said he is not positive but believes they would have 30 days to appeal.

Holte then asked the group if they would like to discuss the alternatives? Franks asked if approved, are conditions included in the notice to the DNR of the Boards decision? Holte said yes. Holte said he did not discuss alternatives with the DNR, but there should not be an issue if our recommendations/conditions are followed. The proposed conditions lower the current impervious surface coverage from ~38% to ~35%.

Holte asked Mr. Mahan if he would be agreeable to the staff recommendations/conditions if the Board granted the variance. He stated he would.

Pulkrabek made a motion to approve the Variance request with staff conditions:

- 1) No more than 35% of the lot shall be developed with impervious surface coverage.
- 2) The applicant must remove all of the concrete currently on the property.
- 3) The applicant must plant a vegetative buffer of at least 10' between his west property line.
- 4) The applicant could replace his concrete with pervious pavers and staff would allow a 50% credit reduction for calculating surface coverage.
- 5) The applicant would be limited to a 22' x 22' pervious paver pad in front of the detached garage, and a 14' x 14' pervious pad in front of the proposed attached garage.
- 6) The applicant/owner cannot add to the impervious surface coverage of the lot in the future without first obtaining a variance. (This shall include sidewalks, patios, pavers, etc.)

Second by Wright. All in favor.

Update: Lindberg will be coming back in for a Variance soon. He was denied a variance in 2013 for a house on his property on an island on Maple Lake. Holte also informed them that the DNR changed their interpretation of the “non-conforming” statute regarding habitable dwellings and removed the word “development”. Holte said in light of the DNR flip flopping on their interpretation, he plans to amend the Zoning Ordinance accordingly when it goes to County Board on March 4th.

There are also 2 CUP's for next month.

Next meeting will be March 28th, 2014. Meeting was adjourned.